UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:22-cv-646-KDB-DCK

YILIEN OSNARQUE,)
Plaintiff,)
vs.) ORDER
HAROLD BENDER, et al.,)
Defendants.)
)

THIS MATTER is before the Court *sua sponte*.

The *pro se* Plaintiff, a former prisoner of the State of North Carolina who is presently a detainee at the Stewart Detention Center in Lumpkin, Georgia, filed this action pursuant to 42 U.S.C. § 1983. [Doc. 1]. He is proceeding *in forma pauperis*. [Doc. 9].

On February 13, 2023, the Complaint was dismissed on initial review, and the Plaintiff was granted the opportunity to amend. [Doc. 10]. He was cautioned that, "[s]hould Plaintiff fail to timely amend his Complaint ..., the Court will dismiss this action without prejudice." [Id. at 5]. The Plaintiff has not filed an Amended Complaint and the time to do so has expired.

The Plaintiff appears to have abandoned this action. Therefore, this action will be dismissed without prejudice. See Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."); Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962) (although Rule 41(b) does not expressly provide for sua sponte dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that:

- This action is **DISMISSED** without prejudice for failure to comply with the Court's February 13, 2023 Order.
- 2. The Clerk of Court is directed to close this case.

Signed: March 31, 2023

Kenneth D. Bell

United States District Judge